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PTO/SB/05 (11-00)

Approved for use through 10/31/2002. OMB 0651-0032

U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE

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# UTILITY PATENT APPLICATION TRANSMITTAL

(Only for new nonprovisional applications under 37 C.F.R. 1.53(b))

Attorney Docket No.	38-21(15367)C
First Inventor	BYRUM, et al.
Title	Nucleic Acid Molecules and Other Molecules Associated with Plants
Express Mail Label No.	

## APPLICATION ELEMENTS

See MPEP chapter 600 concerning utility patent application contents.

- ☐ Fee Transmittal Form (e.g., PTO/SB/17)  
(Submit an original and a duplicate for fee processing)
- ☐ Applicant claims small entity status.  
See 37 CFR 1.27.
- ☒ Specification [Total Pages 92]  
(preferred arrangement set forth below)
  - Descriptive title of the invention
  - Cross References to Related Applications
  - Statement Regarding Fed sponsored R & D
  - Reference to sequence listing, a table, or a computer program listing appendix
  - Background of the invention
  - Brief Summary of the invention
  - Brief Description of the Drawings (if filed)
  - Detailed Description
  - Claim(s)
  - Abstract of the Disclosure
- ☐ Drawing(s) (35 U.S.C. 113) [Total Sheets ]
- ☐ Oath or Declaration [Total Pages 9]
  - ☐ Newly executed (original or copy)
  - ☒ Copy from a prior application (37 CFR 1.63 (d))  
(for a continuation/divisional with Box 18 completed)
  - ☐ **DELETION OF INVENTOR(S)**  
Signed statement attached deleting inventor(s) named in the prior application, see 37 CFR 1.63(d)(2) and 1.33(b).
- ☐ Application Data Sheet. See 37 CFR 1.76

## ADDRESS TO:

Assistant Commissioner for Patents  
Box Patent Application  
Washington, DC 20231

- ☐ CD-ROM or CD-R in duplicate, large table or Computer Program (Appendix)
- Nucleotide and/or Amino Acid Sequence Submission (if applicable, all necessary)
  - ☒ Computer Readable Form (CRF)
  - Specification Sequence Listing on:
    - ☒ CD-ROM or CD-R (2 copies); or
    - ☐ paper
  - ☒ Statements verifying identity of above copies

## ACCOMPANYING APPLICATIONS PARTS

- ☐ Assignment Papers (cover sheet & document(s))
- ☐ 37 C.F.R. §3.73(b) Statement ☐ Power of Attorney  
(when there is an assignee)
- ☐ English Translation Document (if applicable)
- ☒ Information Disclosure Statement (IDS)/PTO-1449 ☒ Copies of IDS Citations
- ☒ Preliminary Amendment
- ☒ Return Receipt Postcard (MPEP 503)  
(Should be specifically itemized)
- ☐ Certified Copy of Priority Document(s)  
(if foreign priority is claimed)
- ☒ Request and Certification under 35 U.S.C. 122 (b)(2)(B)(i). Applicant must attach form PTO/SB/35 or its equivalent.
- ☐ Other: ----

18. If a CONTINUING APPLICATION, check appropriate box, and supply the requisite information below and in a preliminary amendment, or in an Application Data Sheet under 37 CFR 1.76:

☒ Continuation ☐ Divisional ☐ Continuation-in-part (CIP)

of prior application No: 09 / 306,349

Prior application information: Examiner Michael Borin

Group / Art Unit: 1631

For CONTINUATION or DIVISIONAL APPS only: The entire disclosure of the prior application, from which an oath or declaration is supplied under Box 5b, is considered a part of the disclosure of the accompanying or divisional application and is hereby incorporated by reference. The incorporation can only be relied upon when a portion has been inadvertently omitted from the submitted application parts.

## 17. CORRESPONDENCE ADDRESS

☐ Customer Number or Bar Code Label

(Insert Customer No. or Attach bar code label here)

or ☒ Correspondence address below

Name	Gail Wuellner				
Address	Monsanto Company 800 N. Lindbergh Blvd., Mail Zone E2NA				
City	St. Louis	State	MO	Zip Code	63167
Country	USA	Telephone	314-694-3602	Fax	314-694-1671

Name (Print/Type)	Lawrence M. Lavin, Jr. by June E. Cohan	Registration No. (Attorney/Agent)	30,768/43,741
Signature	Lawrence M. Lavin, Jr. by [Signature]		Date Sept 24, 2001

Burden Hour Statement: This form is estimated to take 0.2 hours to complete. Time will vary depending upon the needs of the individual case. Any comments on the amount of time you are required to complete this form should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, Washington, DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Assistant Commissioner for Patents, Box Patent Application, Washington, DC 20231.

# ARNOLD & PORTER

202.942.5000  
202.942.5999 Fax

555 Twelfth Street, NW  
Washington, DC 20004-1206

September 24, 2001

***Box Patent Application***

Commissioner for Patents  
Washington, D.C. 20231

Re: U.S. Continuation Application  
Appl. No.: To Be Assigned  
Filed: Herewith  
For: Nucleic Acid Molecules and Other Molecules  
Associated with Plants  
Inventors: BYRUM, *et al.*  
Atty. Docket: 38-21(15367)C

Sir:

The following documents are forwarded herewith for appropriate action by the U.S. Patent and Trademark Office.

1. Utility Patent Application Transmittal (PTO/SB/05);
2. U.S. Non-Provisional Application entitled:

**Nucleic Acid Molecules and Other Molecules Associated with Plants**

and naming as inventors:

Joseph R. Byrum, Thomas J. La Rosa and Gregory R. Heck

the application consisting of:

- a. A specification containing:
  - (i) 89 pages of a description prior to the claims;
  - (ii) 2 pages of claims (7 claims); and
  - (iii) a one (1) page abstract;
3. a Statement Regarding Sequence Submission;
4. a Sequence Listing on CD-ROM identified as "Sequence Listing Copy 1;"
5. a Sequence Listing on CD-ROM identified as "Sequence Listing Copy 2;"

6. the sequence listing in computer readable form (*i.e.*, CRF);
7. a Request and Certification Under 35 U.S.C. 122(b)(2)(B)(i) (PTO/SB/35);
8. Preliminary Amendment;
9. a copy of Combined Declaration and Power of Attorney for Patent Application of Joseph R. Byrum filed in parent appln. no. 09/306,349 (3 pages);
10. a copy of Combined Declaration and Power of Attorney for Patent Application of Thomas J. La Rosa filed in parent appln. no. 09/306,349 (3 pages);
11. a copy of Combined Declaration and Power of Attorney for Patent Application of Gregory R. Heck filed in parent appln. no. 09/306,349 (3 pages);
12. Information Disclosure Statement;
13. PTO Form-1449 (3 pages) with 8 accompanying documents;
14. check No. 139715 in the amount of \$710 to cover the basic continuation filing fee;  
and
15. two (2) return postcards.

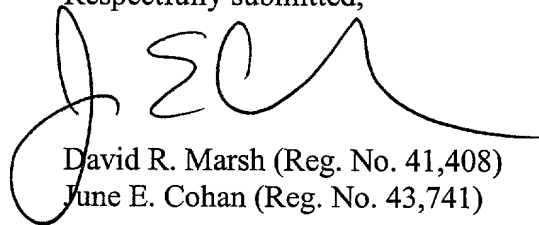
Submitted herewith is a sequence listing and a sequence listing in CD-ROM, in compliance with 37 C.F.R. §§ 1.52(e), 1.77, and 1.823.

It is respectfully requested that, of the two attached postcards, one be stamped with the filing date of these documents and returned to our courier, and the other, prepaid postcard, be stamped with the filing date and unofficial application number and returned as soon as possible.

This application is a continuation of prior application no. 09/306,349 filed on May 10, 1999.

Applicants do not believe that any fees other than the basic filing fee (\$710) are due in conjunction with this filing. However, should any additional fees be required, the Patent and Trademark Office is authorized to charge any additional fees or credit any overpayment to Arnold & Porter deposit account 50-1824 referencing matter number 38-21(15367)C. This letter is submitted in duplicate.

Respectfully submitted,



David R. Marsh (Reg. No. 41,408)  
June E. Cohan (Reg. No. 43,741)

Enclosures

096049 092401  
T 04250 T 0340550

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**REQUEST AND CERTIFICATION  
UNDER  
35 U.S.C. 122(b)(2)(B)(i)**

First Named Inventor	BYRUM, et al.
Title	Nucleic Acid Molecules and Other Molecules Associated with Plants
Atty Docket Number	38-21(15367)C

I hereby certify that the invention disclosed in the attached application **has not and will not be** the subject of an application filed in another country, or under a multilateral agreement, that requires publication at eighteen months after filing. I hereby request that the attached application not be published under 35 U.S.C. 122(b).

Sept 24, 2001  
Date

Lawrence M. Lavin Jr.  
by JSC  
Signature

Lawrence M. Lavin, Jr. (Reg. No. 30,768)  
by June E. Cohan (Reg. No. 43,741)

Typed or printed name

This request must be signed in compliance with 37 CFR 1.33(b) and submitted with the application **upon filing**.

Applicant may rescind this nonpublication request at any time. If applicant rescinds a request that an application not be published under 35 U.S.C. 122(b), the application will be scheduled for publication at eighteen months from the earliest claimed filing date for which a benefit is claimed.

If applicant subsequently files an application directed to the invention disclosed in the attached application in another country, or under a multilateral international agreement, that requires publication of applications eighteen months after filing, the applicant **must** notify the United States Patent and Trademark Office of such filing within forty-five (45) days after the date of the filing of such foreign or international application. **Failure to do so will result in abandonment of this application (35 U.S.C. 122(b)(2)(B)(iii)).**

Burden Hour Statement: This collection of information is required by 37 CFR 1.213(a). The information is used by the public to request that an application not be published under 35 U.S.C. 122(b) (and the PTO to process that request). Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This form is estimated to take 6 minutes to complete. This time will vary depending upon the needs of the individual case. Any comments on the amount of time you are required to complete this form should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, Washington, DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Assistant Commissioner for Patents, Washington, DC 20231.

096044-0940  
T04260-1849660

[illegible]BYRUM, *et al.*

Art Unit: To be assigned

Examiner: To be assigned

Atty. Docket: 38-21(15367)C

Commissioner for Patents  
Washington, DC 20231

In accordance with 37 C.F.R. § 1.821(f), the compact disk copies of the Sequence Listing and the computer-readable copy of the Sequence Listing submitted herewith in the above-mentioned application are the same.

Respectfully submitted,

Lawrence M. Lauth, Jr.

by

Lawrence M. Davin, Jr. (Reg. No. 30,768)

by June E. Conan (Reg. No. 43,741)

Date: Sept 24, 2001

Monsanto Company  
800 N. Lindbergh Blvd.  
St. Louis, MO 63167  
314-694-3602 telephone  
314-694-1671 facsimile